

USSN: 10/677,551

Ref. No. 27712 (formerly 01337.US1)

**REMARKS**

Applicants thank the Examiner for indicating the claims contain allowable subject matter. After entry of the present amendment, claims 1-8 and 10-30 will be pending in the present application. Claim 9 has been canceled. Claims 1, 10, 12-14, 17, 18, 19, 25 and 30 have been amended without prejudice to remove non-elected subject matter and make non-limiting typographical corrections. Claim 20 has been amended without prejudice to advance the prosecution of the application. The amendments to claims are fully supported by the application as filed. Accordingly, applicants respectfully request entry of this amendment into the application.

In view of the amendments and following remarks, applicants respectfully request reconsideration and withdrawal of the rejections and objections set forth in the Office Action.

**Election/Restriction**

Applicants hereby confirm the provisional election of the claims of Group I, claims 1-30. Applicants have amended the claims, without prejudice, to remove non-elected subject matter.

**Abstract**

The Office Action indicated that the chemical structure of formula I should be included in the abstract. Applicants have amended the Abstract to include the structure of formula I.

**Objection**

In the Office Action, claims 17-18 and 30 were objected to as being drawn to multiple inventions. Applicants have amended claims 17, 18 and 30 to remove non-elected subject matter.

**Claim Rejections - 35 U.S.C. § 112, First Paragraph**

In the Office Action, claim 20 was "rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling to the treatment of microbial infections specifically for bacterial infection, does not reasonably provide enablement for the

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treatment of microbial infection generally." Applicants have amended claim 20 to recite a method of treating a bacterial infection. In light of this, applicants respectfully request the Examiner withdraw these rejections.

#### Claim Rejections - 35 U.S.C. § 112, Second Paragraph

In the Office Action, claims 1-16 and 19-29 were "rejected under 35 U.S.C. 112, second paragraph, as being indefinite" for various reasons.

Claim 1 was rejected for reciting "C<sub>1-7</sub> alkyl which is optionally partially unsaturated[.]" Applicants respectfully traverse this rejection and submit that the phraseology in claim 1, where an alternative to a recited group can be "optionally partially unsaturated[,]" is well understood by the skilled artisan to mean that such group need not be fully saturated and can contain, for example, a double or triple bond. As the claim "apprises one of ordinary skill in the art of its scope and, therefore, serves the notice function required by 35 U.S.C. 112 paragraph 2" applicants respectfully request the Examiner withdraw this rejection. MPEP §2173.02.

Claim 1 was rejected as well for containing the phrase "including enantiomeric, diastereomeric, or tautomeric isomers thereof[.]" Applicants have included to the phrase "including enantiomeric, diastereomeric, or tautomeric isomers thereof" in order to avoid any confusion by providing the notice function of patent claims and fully apprising all that the claims cover enantiomers, diastereomers and tautomers of the compounds. Applicants respectfully request that despite any redundancy the Examiner withdraw this ground for rejection as it does not render the scope of the claim unclear.

Claim 3 was rejected for reciting the phrase "Each R<sub>3</sub> is independently... (c) Oxo[.]" Applicants believe that this rejection was meant to refer to claim 1 as claim 3 does not specifically recite R<sub>3</sub>. Claim 1 has been amended to make clear that both R<sub>3</sub> groups together can form an oxo group.

Claim 13 was rejected for not ending with a period. Claim 13 has been amended to end with a period.

Claim 19 was rejected for containing two periods. Applicants have amended claim 19 to remove the period after ZnCl<sub>2</sub>.

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Claim 25 was rejected because "the composition lacks carrier." Applicants have amended claim 25 to include a carrier.

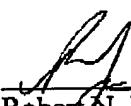
In light of these amendments and comments, applicants respectfully request the Examiner withdraw these rejections.

### CONCLUSION

In view of the above remarks and amendments, applicants respectfully submit that this application is in condition for allowance and earnestly solicit notice to that effect. The Examiner is invited to contact the undersigned at the telephone number provided below if the Examiner believes such would be helpful in advancing the application to issue.

Respectfully submitted,

Dated: 1-27-05

  
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